99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-725
Part 1

REQUIRING THE SECRETARY OF THE INTERIOR TO CONDUCT A STUDY TO DETERMINE THE APPROPRIATE MINIMUM ALTITUDE FOR AIRCRAFT FLYING OVER NATIONAL PARK SYSTEM UNITS

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

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REPORT

[To accompany H.R. 4430]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4430) to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

SECTION 1. STUDY OF PARK OVERFLIGHTS.

(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the national park system. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator"), shall provide technical assistance to the Secretary of the Interior in carrying out the study.

(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the national park system and shall provide information regarding the types of overflight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and portions thereof, in which the most serious adverse impacts from aircraft overflight exist.

(c) SPECIFIC REQUIREMENTS.—The study under this section shall include research at the following units of the national park system: Cumberland Island National Seashore, Yosemite National Park, Hawaii Volcanoes National Park, Haleakala National Park, Glacier National Park, and Mt. Rushmore National Memorial, and at

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no more than 4 additional national park system units, excluding those established by Section 201 of Public Law 96-487. The research at each such unit shall provide information and an evaluation regarding each of the following:

(1) The impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters.

(2) The impairment of visitor enjoyment associated with overflights over national park system units.

(3) Other injurious effects of flights over park system lands on the natural, historical, and cultural resources for which the park system units were established.

(4) The values of aircraft flights over park system lands in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflight by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within the park system units concerned which are associated with flight by commonly used aircraft at different altitudes. The research shall apply only to overflights and shall not apply to landing fields within, or adjacent to, park system units.

(d) REPORT TO CONGRESS.—The Secretary of the Interior shall submit a report to the Congress within 3 years after the enactment of this Act containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the effects referred to in paragraphs (1) through (3) of subsection (c). Before submission to the Congress the Secretary shall provide a draft of the report and recommendations to the Administrator of the Federal Aviation Administration for his review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary's recommendations will have an adverse effect on the safety of aircraft operations.

(e) FAA REVIEW OF RULES.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the national park system at which research is conducted under subsection (c) and in addition over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 6 months after the identification of the units of the national park system for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which is needed to implement any such changes.

(f) AUTHORIZATION.—Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKALA DURING STUDY AND REVIEW

(a) YOSEMITE NATIONAL PARK.—During the applicable study and review period it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term "surface" refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

(b) HALEAKALA NATIONAL PARK.—During the applicable study and review period it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakala National Park: Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

(c) APPLICABLE PERIOD.—For purposes of the subsections (a) and (b), the applicable study and review period shall be the period comprised of the time prior to the sub-

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mission of the report under section 1 plus a 2-year period for Congressional review thereafter.

(d) EXCEPTIONS.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

(1) Emergency situations involving the protection of persons or property, including aircraft.

(2) Search and rescue operations.

(3) Flights for purposes of firefighting.

(4) Compliance with instructions of an air traffic controller.

(e) ENFORCEMENT.—For purposes of enforcement, the prohibitions contained in subsections (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958. To provide information to pilots regarding the restrictions established under this Act, the Administrator of the Federal Aviation Administration shall publish notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act.

SEC. 3. GRAND CANYON NATIONAL PARK.

(a) Noise associated with aircraft overflight at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the Park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

(b) PLAN.—

(1) SUBMISSION.—Within 30 days after the enactment of this Act, the Secretary, acting through the Director of the National Park Service, shall submit to the Administrator of the Federal Aviation Administration a final plan for the management of air traffic in the air space above Grand Canyon National Park. The plan shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the plan shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, except for purposes of administration and for emergency operations.

(2) IMPLEMENTATION.—Not later than 60 days after receipt of the plan under paragraph (1) and after notice and opportunity for hearing, the Administrator shall issue regulations implementing the recommendations in the plan unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, revise the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator's authority to enforce such regulations under the Federal Aviation Act of 1958, the Director may enforce the requirements of the plan under such rules and regulations applicable to the units of the national park system as he deems appropriate. The Director shall consider the appropriate use of his existing authorities as they may relate to the licensing of commercial operations in connection with national park units.

(3) REPORTS.—Within 2 years after the effective date of the plan required by subsection (b)(1), the Secretary shall submit to the Congress a report discussing—

(A) whether the plan has succeeded in substantially restoring the natural quiet in the Park, and

(B) such other matters, including possible changes in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan's implementation on aircraft safety.

(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

(1) which fly a direct route between a point on the north rim outside the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe), and

(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

BACKGROUND

Controversy over aircraft flights at low elevation above certain units of the National Park System has existed for several years. Because of the severity of the problem, the Federal Aviation Administration (FAA) and the National Park Service (NPS) entered into a Memorandum of Agreement in September of 1984 in an effort to promote compliance with the FAA advisory rule to maintain an elevation of 2,000 feet above units of the National Park System. While these efforts are reported to have had positive effects at some units, especially with general aviation pilots, there has been increasing concerned expressed about other park units and about the flight patterns of the rapidly expanding scenic overflight industry.

While numerous complaints are received each year from park users offended by noise intrusion of aircraft or expressing concern over the safety of rock climbers, horseback riders and other park users, there has been no systematic study of the park system to determine how widespread and how severe the problem is. Neither has there been any systematic study of the noise levels of different types of aircraft flying at different elevations.

PURPOSE

The purpose of H.R. 4430 [1] is to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units and to establish criteria and procedures for aircraft flight control over three specific park units; Grand Canyon, Yosemite, and Haleakala.

SECTION-BY-SECTION ANALYSIS

Section 1(a) directs the Secretary of the Interior acting through the Director of the National Park Service to conduct a study to determine the proper minimum altitude that should be maintained while flying over various units of the National Park System. The Federal Aviation Administration is required to provide assistance.

Section 1(b) sets forth specific requirements for the service wide study.

Section 1(c) requires a more thorough research program, as part of the study, be conducted at not more than 10 units of the National Park System, six of which are named. The language sets forth specific objectives of the study and requires the research be directed to overflights and not to airfields or landing areas within or adjacent to park units.

Section 1(d) requires the study to be submitted to the Congress within three years after review and comment by the Administrator of the Federal Aviation Administration with respect to the safety of aircraft operations. The final report must include a finding by the Administrator that the implementation of the recommendations would not have adverse effects upon the safety of aircraft op-

[1] H.R. 4430 was introduced by Representative Coelho for himself and Representatives Lehman and Heftel on March 18, 1986.

erations or include a statement that sets forth the reasons the Administrator feels that any recommendation might cause a problem.

The Committee believes this study or aircraft overflights of units of the National Park System is long overdue. It is noted that the study of aircraft overflights at Grand Canyon National Park, which is now in its final stages, was required by Congressional action in 1975. The Committee urges the National Park Service to draw upon its experience at Grand Canyon and expects the Secretary of the Interior to request study funds as soon as practicable so this study may be completed within the time limit proscribed by the Congress.

Section 1(e) requires the Administrator to review existing rules and regulations affecting overflights of park system units to determine if changes are necessary on the basis of aircraft safety. The report is to be submitted to the Congress with six months of the identification of the 10 units selected for detailed research.

Section 1(f) authorizes appropriations for the studies.

Section 2(a) requires that aircraft fly at least 2,000 feet above the ground surface (under visual flight rules) at Yosemite National Park, including 2,000 feet above the elevation of the uppermost rim of Yosemite Valley. The restriction shall during the time of the study and study review period.

Section 2(b) requires that aircraft fly at or above 9,500 feet elevation (under visual flight rules) over the crater and other named areas at Haleakala National Park. The restriction shall apply during the time of the study and study review period.

The Committee recognizes that the upper rim of the crater within Haleakala National Park has elevations above 9,500 feet and that a visitor center and some overlooks are at or near the prescribed minimum flight elevation. The 9,500 foot elevation, while less than adequate to control aircraft noise in some areas, was adopted by the Committee as a compromise designed to allow a minimum elevation low enough to permit continuing operation of sightseeing aircraft at altitudes below their maximum ceilings. However, the Committee expects an effort to be made to eliminate flights that would intrude on the park visitors using the high elevation visitor center and overlooks.

Section 2(c) defines the study and study review period as the time prior to submission of the report to the Congress and two years thereafter.

Section 2(d) makes exceptions to the restrictions in Section 2 related to situations of public health and safety, protection of property, fire fighting, and compliance with instructions from an air traffic controller.

Section 2(e) places the requirement for enforcement of the restrictions upon the Federal Aviation Administration.

Section 3(a) sets forth findings of problems with aircraft overflights at Grand Canyon National Park.

Section 3(b) requires that the Secretary shall submit a plan to the Administrator within 30 days of enactment that will provide for substantial restoration of the natural quiet at Grand Canyon National Park and provide for protection of public health and safety from adverse effects associated with aircraft overflights including a requirement barring aircraft flights below the rim of the

Grand Canyon. The plan would be submitted to the Administrator who would review it for any adverse impacts on aviation safety. A process for reconciliation between recommendations to protect the park and protection of aircraft safety is set forth. The Federal Aviation Administration is required to issue and enforce regulations to implement the plan. The Director of the National Park Service is required to use his existing authorities to aid in accomplishing the objectives of the plan. A report to the Congress is required two years after implementation.

The Committee does not intend that this legislation would give the Director any authority to enforce Federal Aviation Administration regulations.

The Committee did not attempt to define precisely the meaning of "below the rim." It expects that the plan submitted by the Park Service to the FAA will contain such a definition and that it will be a practical and common sense definition that meets the Committee's objectives of substantially restoring the natural quiet of the Grand Canyon while permitting safe flying operations in the airspace above the park.

The Committee adopted language to permit aircraft flights below the rim of the Grand Canyon National Park only for emergency and administrative purposes. These purposes are intended to include necessary administrative flights by the National Park Service, Geological Survey or other governmental entities, including state and local, in the performance of their duties and responsibilities. Utilities needing access to their equipment in order to maintain essential services, such as power and telephone lines, water gauging stations, and related facilities, also are intended to be included under the administrative exception.

Section 3(c) permits continued helicopter operations below the rim of the Canyon for the sole purpose of transporting river runners between the landing strips on the north rim and the landing pads on the Hualapai Indian Reservation. The Committee recognizes the need to continue these operations since other means of transportation are infeasible. While the Committee has not specifically identified in the legislation the landing strips and pads to be used for the river runner operations, it intends that such landing strips and pads be located as close in proximity as practicable to provide for the shortest and most direct flight possible from one to the other.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

A hearing was held by the Subcommittee on National Parks and Recreation on H.R. 4430 on May 20, 1986. The bill was considered on June 26, 1986 and was recommended to the Committee on Interior and Insular Affairs with an amendment in the nature of substitute. The Committee on Interior and Insular Affairs approved the amendment in the nature of a substitute, with further amendments and recommended H.R. 4430 as amended, to the House on July 16, 1986 by voice vote.

INFLATIONARY IMPACT STATEMENT AND BUDGET ACT COMPLIANCE

No additional federal funding is required by this bill and the Committee believes no inflationary impact will result from the enactment of this legislation. No analysis from the Congressional Budget Office was received by the Committee prior to the filing of this report.

OVERSIGHT STATEMENT

The Committee intends to carefully monitor the implementation of this legislation to assure compliance with the intent of the Act. No recommendations were submitted to the Committee pursuant to Rule X, clause 2(b)(2).

DEPARTMENT REPORT

The Committee requested a report from the Department of the Interior and the Department of Transportation on April 25, 1986. No response from either Department had been received as of the date of this report.

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